

Notice of Allowability

Application No.

10/090,473

Examiner

Vy Q. Bui

Applicant(s)

POLLOCK ET AL.

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 01/14/2005.
2. ☒ The allowed claim(s) is/are 16-25.
3. ☒ The drawings filed on 7/22/2004 & 6/12/2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☒ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue.

Authorization for this examiner's amendment was given in a telephone interview with applicants' attorney, Mr. Hanley, on 02/07/2005.

2. The application has been amended as follows:

Claims 1-15, 26-32 have been canceled.

CLAIM 16 (Patent claim 1):

- Line 8: after "tails", delete "**embody a continuous surface that has** " and insert
-- **include a perimeter, a tail surface extending across a lateral face of the tail surface bounded by the perimeter, the lateral surface having --.**

3. The following is an examiner's statement of reasons for allowance: the prior art of reference has failed to disclose or suggested a prosthesis comprising a plurality of cells defined by struts having a first width, each cell having a bottom end and a top end, the struts defining a surface exterior of the cell, a flattened bulbous tail attached to the surface exterior of the cell adjacent the bottom end of at least more than one of the cells; and a flattened bulbous tail attached to the surface exterior of the cell adjacent the top end of at least more than one of the

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cells, wherein the flattened bulbous tails include a perimeter, a tail surface extending across a lateral face of the tail surface bounded by the perimeter, the lateral surface having a second width greater than the first width. The prior art of reference has also failed to disclose or suggest prosthesis comprising a plurality of cells defined by struts having a first width, each cell having a bottom end and a top end, the struts defining a surface exterior of the cell, a flattened bulbous tail attached to the surface exterior the cell adjacent the bottom end of each cell, wherein adjacent flattened bulbous tails are staggered longitudinally and each flattened bulbous tail contours into the body of the prosthesis; and a flattened bulbous tail attached to the surface exterior the cell adjacent the top end of each cell, wherein adjacent flattened bulbous tails are staggered longitudinally and each flattened bulbous tail contours into the body of the prosthesis; wherein the flattened bulbous tails embody a continuous surface that has a second width greater than the first width.

Claims 16-25 are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


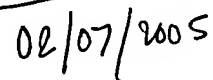
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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vy Q. Bui whose telephone number is 571-272-4692. The examiner can normally be reached on Monday-Tuesday and Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T Nguyen can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vy Q. Bui
Primary Examiner
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